



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 16, 2023

BY ECF

The Honorable Ronnie Abrams
United States District Judge
40 Foley Square
New York, NY 10007

Re: *United States v. Adriano Rodriguez-Diaz*, 21 Cr. 246 (RA)

Dear Judge Abrams:

The Government respectfully submits this letter in advance of the sentencing of defendant Adriano Rodriguez-Diaz (the “defendant”) in the above-referenced matter which is scheduled for January 17, 2023 at 9:00 a.m.

On December 21, 2022, the Government filed a supplemental letter in advance of sentencing (the “Supplemental Letter”). (Dkt. No. 99.) The Supplemental Letter set forth the Government’s position that, based on the facts outlined therein, a two-level obstruction of justice enhancement is applicable, pursuant to United States Sentence Guidelines (“U.S.S.G.” or “Guidelines”) § 3C1.1, for the defendant’s attempts to threaten and intimidate a cooperating witness (“CW-1”) and CW-1’s family, including his brother (the “Brother”), prior to the November 9, 2022 *Fatico* hearing. (See generally *id.*) As detailed in the Supplemental Letter, the facts giving rise to the enhancement began to occur on or about November 2, 2022 and included the defendant contacting the Brother by phone to threaten him and his family while the defendant remained in custody. (*Id.* at 2.)

On January 12, 2023, the defendant filed a reply letter (the “Reply Letter”). (Dkt. No. 103.) The Reply Letter suggests that the defendant could not have been “‘directing’ others to perform certain, threatening acts,” because “he was actually being held in isolation in the Special Holding Unit (“SHU”), with no ability to contact any person other than counsel” during the relevant time period. (Dkt. No. 103 at 2.)

On January 16, 2023, the Government received the defendant’s housing records from September 29, 2022 through the present, which it produced to defense counsel that same date. The defendant’s housing records are attached hereto as Exhibit A and incorporated by reference herein. These records indicate that between November 2, 2022 and November 3, 2022, during the time period in which the Supplemental Letter outlines two occasions when the defendant contacted the Brother to threaten him, the defendant was not, in fact, housed in the SHU, contrary to what is suggested in his Reply Letter. The defendant was only subsequently placed in the SHU from November 7, 2022 through November 28, 2022 after a contraband cellphone was recovered from the defendant’s cell. (Dkt. No. 99 at 3.) The defendant’s housing records therefore further support

the factual finding that the defendant had access to a contraband cellphone during the relevant time period, which he used to contact the Brother in the manner detailed in the Supplemental Letter.

The Government remains available to answer any further questions of the Court.

Respectfully submitted,

DAMIAN WILLIAMS

United States Attorney

by: /s/

Danielle M. Kudla / Alexander Li / Mitzi Steiner

Assistant United States Attorneys

(212) 637-2304 / 2265 / 2284